



PATENT

IFW 8

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of	)	
Roland Scherer	)	Group: 3683
Serial No.10/554,482	)	Confirmation No. 6544
Filed: October 24, 2005	)	
Title: METHOD FOR MONITORING A	)	Corresponding to International
BRAKING TORQUE MODIFICATION	)	Application No. PCT/EP04/13467
OF A RETARDER	)	Filed: November 27, 2004

SUBMISSION OF INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Submitted herewith is an English translation of the International Preliminary Report on Patentability.

Respectfully submitted,

John F. Hoffman  
Registration No. 26,280

Attorney for Applicants

JFH/nw

BAKER & DANIELS  
111 East Wayne Street, Suite 800  
Fort Wayne, IN 46802  
Telephone: 260-424-8000  
Facsimile: 260-460-1700

Enc. International Preliminary  
Report on Patentability  
Return Postcard

CERTIFICATION OF FACSIMILE TRANSMISSION

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on: September 28, 2006

JOHN F. HOFFMAN, REG. NO. 26,280

Name of Registered Representative

Signature

September 28, 2006

Date

# PATENT COOPERATION TREATY

## PCT

### INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY (Chapter I of the Patent Cooperation Treaty)

(PCT Rule 44bis)

Applicant's or agent's file reference PG 06172WO	FOR FURTHER ACTION		See item 4 below
International application No. PCT/EP2004/013467	International filing date ( <i>day/month/year</i> ) 27 November 2004 (27.11.2004)	Priority date ( <i>day/month/year</i> ) 23 December 2003 (23.12.2003)	
International Patent Classification (8th edition unless older edition indicated) See relevant information in Form PCT/ISA/237			
Applicant VOITH TURBO GMBH & CO. KG			

<p>1. This international preliminary report on patentability (Chapter I) is issued by the International Bureau on behalf of the International Searching Authority under Rule 44 bis.1(a).</p> <p>2. This REPORT consists of a total of 7 sheets, including this cover sheet.</p> <p>In the attached sheets, any reference to the written opinion of the International Searching Authority should be read as a reference to the international preliminary report on patentability (Chapter I) instead.</p>																
<p>3. This report contains indications relating to the following items:</p> <table> <tr> <td><input checked="" type="checkbox"/> Box No. I</td> <td>Basis of the report</td> </tr> <tr> <td><input type="checkbox"/> Box No. II</td> <td>Priority</td> </tr> <tr> <td><input type="checkbox"/> Box No. III</td> <td>Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</td> </tr> <tr> <td><input type="checkbox"/> Box No. IV</td> <td>Lack of unity of invention</td> </tr> <tr> <td><input checked="" type="checkbox"/> Box No. V</td> <td>Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</td> </tr> <tr> <td><input type="checkbox"/> Box No. VI</td> <td>Certain documents cited</td> </tr> <tr> <td><input checked="" type="checkbox"/> Box No. VII</td> <td>Certain defects in the international application</td> </tr> <tr> <td><input type="checkbox"/> Box No. VIII</td> <td>Certain observations on the international application</td> </tr> </table> <p>4. The International Bureau will communicate this report to designated Offices in accordance with Rules 44bis.3(c) and 93bis.1 but not, except where the applicant makes an express request under Article 23(2), before the expiration of 30 months from the priority date (Rule 44bis .2).</p>	<input checked="" type="checkbox"/> Box No. I	Basis of the report	<input type="checkbox"/> Box No. II	Priority	<input type="checkbox"/> Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability	<input type="checkbox"/> Box No. IV	Lack of unity of invention	<input checked="" type="checkbox"/> Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement	<input type="checkbox"/> Box No. VI	Certain documents cited	<input checked="" type="checkbox"/> Box No. VII	Certain defects in the international application	<input type="checkbox"/> Box No. VIII	Certain observations on the international application
<input checked="" type="checkbox"/> Box No. I	Basis of the report															
<input type="checkbox"/> Box No. II	Priority															
<input type="checkbox"/> Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability															
<input type="checkbox"/> Box No. IV	Lack of unity of invention															
<input checked="" type="checkbox"/> Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement															
<input type="checkbox"/> Box No. VI	Certain documents cited															
<input checked="" type="checkbox"/> Box No. VII	Certain defects in the international application															
<input type="checkbox"/> Box No. VIII	Certain observations on the international application															

<p>The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland</p> <p>Facsimile No. +41 22 338 82 70</p>	<p>Date of issuance of this report 29 August 2006 (29.08.2006)</p>
	<p>Authorized officer</p> <p>Yolaine Cussac</p> <p>e-mail: pt11@wipo.int</p>

# PATENT COOPERATION TREATY

TRANSLATION

From the  
INTERNATIONAL SEARCHING AUTHORITY

## PCT

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

To:

Date of mailing (day/month/year) **See form PCT/ISA/210**

Applicant's or agent's file reference

**PG 06172WO**

**FOR FURTHER ACTION**

See paragraph 2 below

International application No.

**PCT/EP2004/013467**

International filing date (day/month/year)

**27.11.2004**

Priority date (day/month/year)

**23.12.2003**

International Patent Classification (IPC) or both national classification and IPC

**B60T17/22, B60T10/02**

Applicant

**VOITH TURBO GMBH & CO. KG**

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis 1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☒ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

2. **FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bi(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220

3. For further details, see notes to Form PCT/ISA/220

Name and mailing address of the ISA/EP

Authorized officer

Facsimile No.

Telephone No.

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

International application No

PCT/EP2004/013467

Box No. 1 Basis of this opinion

1. With regard to the language, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item

☐

This opinion has been established on the basis of a translation from the original language into the following language

\_\_\_\_\_, which is the language of a translation furnished for the purposes of international search (under Rule 12.3 and 23.1(b)).

2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:

- a. type of material

☐

a sequence listing

☐

table(s) related to the sequence listing

- b. format of material

☐

in written format

☐

in computer readable form

- c. time of filing/furnishing

☐

contained in the international application as filed.

☐

filed together with the international application in computer readable form.

☐

furnished subsequently to this Authority for the purposes of search.

3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished

4. Additional comments:

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

International application No

PCT/EP2004/013467

Box No. V	Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement								
1	Statement								
	Novelty (N)	<table style="width: 100%; border: none;"> <tr> <td style="width: 10%;">Claims</td> <td style="border-bottom: 1px solid black;">1-13</td> <td style="width: 10%; text-align: right;">YES</td> </tr> <tr> <td>Claims</td> <td style="border-bottom: 1px solid black;"></td> <td style="text-align: right;">NO</td> </tr> </table>	Claims	1-13	YES	Claims		NO	
Claims	1-13	YES							
Claims		NO							
	Inventive step (IS)	<table style="width: 100%; border: none;"> <tr> <td style="width: 10%;">Claims</td> <td style="border-bottom: 1px solid black;">1-13</td> <td style="width: 10%; text-align: right;">YES</td> </tr> <tr> <td>Claims</td> <td style="border-bottom: 1px solid black;"></td> <td style="text-align: right;">NO</td> </tr> </table>	Claims	1-13	YES	Claims		NO	
Claims	1-13	YES							
Claims		NO							
	Industrial applicability (IA)	<table style="width: 100%; border: none;"> <tr> <td style="width: 10%;">Claims</td> <td style="border-bottom: 1px solid black;">1-13</td> <td style="width: 10%; text-align: right;">YES</td> </tr> <tr> <td>Claims</td> <td style="border-bottom: 1px solid black;"></td> <td style="text-align: right;">NO</td> </tr> </table>	Claims	1-13	YES	Claims		NO	
Claims	1-13	YES							
Claims		NO							
2	Citations and explanations:								
	<p>1 In the present opinion, reference is made to the following documents:</p> <p style="margin-left: 40px;">D1: EP 1 308 359 A</p> <p style="margin-left: 40px;">D2: WO 03/020562 A</p> <p style="margin-left: 40px;">D3: DE 198 57 535 A1</p> <p style="margin-left: 40px;">D4: EP 0 296 728 A</p> <p style="margin-left: 40px;">D5: US 4 477 124 A</p> <p><b><u>Novelty:</u></b></p> <p>2 According to method claim 1 (and use claim 13) a (retarder) change in brake torque is monitored by means of an actuating pressure control circuit with a pressure sensor, by means of which the actuating pressure of the retarder is sensed dynamically. The actuating pressure is compared with a setpoint value, and if predefined criteria are fulfilled a warning message is generated and/or the retarder is prevented from being switched on (manually) as a function of the actual value/setpoint value comparison which is carried out, while in D1 (or in the other cited documents) there is no indication of</p>								

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

International application No  
PCT/EP2004/013467

Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability;  
citations and explanations supporting such statement

dynamic monitoring of the actuating pressure and for the purpose of fault detection (issuing of a warning message and/or prevention of switching on).

2.1 The subject matter of claims 1 and 13 is thus novel (PCT Article 33(2)).

Inventive step:

3 The subject matter of independent claims 1 and 13 solves the following **problem**:  
making available a method for monitoring a (retarder) change in brake torque without considerable additional expenditure or in particular the provision of additional components (description, page 2, lines 4-9), with the **solution** according to the subject matter of independent claims 1 and 13: A method and a use of a pressure sensor for monitoring and for fault detection (issuing of a warning message and/or prevention of switching on) of a retarder.

3.1 The cited documents do not give any indication whatsoever of providing such a method and such a use of a pressure sensor for dynamically monitoring and detecting faults in a retarder. All the subject matters of independent method claim 1 or of use claim 13 are thus not known from, or suggested by, a single document or a combination of documents.

3.2 Claims 2-12 are directly or indirectly dependent on claim 1, and all of claims 1-13 therefore meet the

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/EP2004/013467

Box No. V

Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability;  
citations and explanations supporting such statement

requirements of PCT Article 33(2) and (3).

Industrial applicability:

4 The invention can be used in the vehicle industry.

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

International application No

PCT/EP2004/013467

Box No. VII Certain defects in the international application

The following defects in the form or contents of the international application have been noted:

- 5 Contrary to PCT Rule 5.1(a)(ii), the description does not cite document D1 or indicate the relevant prior art disclosed therein.